

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

SHAN D. PRATHER,

Plaintiff,

vs.

**PAYNE COUNTY CORRECTIONAL
CENTER, et al.,**

Defendants.

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CASE NO. CIV-13-20-R

REPORT AND RECOMMENDATION

Plaintiff, a state prisoner appearing pro se, has brought this action purporting to seek relief pursuant to 42 U.S.C. §1983 for the alleged violation of his constitutional rights. United States District Judge David L. Russell has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B) and (C).

In order for this action to proceed, Plaintiff must ordinarily either pay a \$350 filing fee or be granted leave to proceed without prepayment of that fee. 28 U.S.C. §§1914,1915; LCvR3.2; LCvR3.3. Plaintiff has done neither in this case. In a case previously brought by Plaintiff in this court, *Prather v. Bureau of Alcohol Tobacco Firearms and Explosives*, No. CIV-12-1369-R, the undersigned has reported that Plaintiff had accumulated three strikes pursuant to 28 U.S.C. § 1915(g) prior to submitting the above-captioned action for filing. Consistent with the recommendation in that case and having reviewed Plaintiff's present complaint and determined that he has not raised any specific or credible allegations of "imminent danger" and that none of the factual allegations in his complaint indicate such

danger, the undersigned recommends that this action be dismissed without prejudice unless Plaintiff pays the full \$350 filing fee within twenty days from the date of any order adopting this Report and Recommendation.

RECOMMENDATION AND NOTICE OF RIGHT TO OBJECT

Accordingly, it is recommended that this action be dismissed without prejudice unless Plaintiff pays the full \$350 filing fee within twenty days from the date of any order adopting this Report and Recommendation. Plaintiff is advised that any objection to this Report and Recommendation must be filed with the Clerk of this Court by the 6th day of February, 2013, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

IT IS SO ORDERED this 17th day of January, 2013.



BANA ROBERTS
UNITED STATES MAGISTRATE JUDGE